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E.O. 12958: N/A  
TAGS: [PREF](#) [ET](#) [KE](#)  
SUBJECT: NO EXIT? GOK SAYS IT WILL DENY EXIT PERMITS TO  
PRIORITY 3 AND VISA 93 REFUGEES

REFTEL: 05 NAIROBI 02882

[1](#)1. (SBU) SUMMARY: Kenyan authorities have long expressed concerns about "undocumented" refugees (those not registered with UNHCR), and often threatened to stop issuing exit permits to them. The latest threat seems more serious than previous ones. It is possible that the GOK will back down, perhaps if offered training and equipment to help conduct its own registration. If the threat is carried out, it will have a heavy impact on this year's admissions numbers. END SUMMARY.

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Background  
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[1](#)2. (SBU) Ethnic Boundaries Ignore the National Ones: Kenya's borders arbitrarily divide some of the ethnic groups that make up the mosaic of its population. As a result, someone on Nairobi's streets who looks and sounds Somali, for example, can be either a citizen, an illegal immigrant, or a refugee, and there are few ways to tell the difference. Asked for their Kenyan ID's, illegals and refugees (illegally in Nairobi due to Kenya's "encampment" policy) often bribe the police. As in many countries, crime is often blamed on refugees and illegal immigrants. Given Kenya's "neighborhood," concerns about illegal immigrants are real and reasonable. Last summer there was a months-long crisis at UNHCR when then Minister of Immigration Linah Kilimo, apparently on an impulse, announced that undocumented persons would be rounded up and deported if they did not regularize their status (ref A), leading to weeks of huge crowds outside UNHCR's doors, hoping for any kind of letter that would help prevent them from being rounded up and deported.

[1](#)3. (SBU) A History of GOK Concerns: For years, Kenyan authorities have expressed concerns about the U.S. Priority 3 ("P-3", family reunification) program, which often involves undocumented refugees. The authorities have accused the program of being a magnet for illegal aliens who come to Kenya hoping to pose as P-3 relatives (buying their way onto U.S. cases). Others, they say, are not actual refugees, but move illegally to Kenya from their home countries just in time to be interviewed by CIS and travel as P-3 refugees. (COMMENT: Despite the best efforts of JVA and CIS to detect such fraud, it is likely that a few such cases do get through. END COMMENT.) For Kenyans, this is an issue that touches on security, crime, and politics. Periodically, Kenyan authorities have either stopped issuing exit permits (necessary for departures of undocumented persons), or threatened to do so. (COMMENT: This was the first crisis to greet Refcoord in August 2003 when he arrived to Post, and since 2003, there have been regular threats to stop issuing exit permits. END COMMENT.) Each time, Refcoord (sometimes backed up by other officials) has responded to their concerns. The usual agreement has been to provide more information to the GOK, to enable Kenyan authorities more easily to investigate possibly fraudulent cases. Each time, thus far, the GOK has gone on issuing exit permits based on this information.

[1](#)4. (SBU) The Size of the Issue: IOM prepared an analysis of refugee movements it undertook in 2005 for a range of resettlement countries from Austria to Zambia. There were 12,871 refugees resettled out of Kenya in 2005 (to 25 different resettlement countries, mostly European with the U.S. and Australia thrown in), of whom 7,496, or 58 percent, were non-UNHCR registered refugees. Of the total number resettled out of Kenya, 75 percent, or 9,669, went to the United States. Out of that 9,669, there were 6,038 non-UNHCR registered refugees, or 62 percent of the U.S. total. For Kenya, which sees these non-UNHCR registered refugees as the problem, 81 percent of the problem is in the U.S. program. END BACKGROUND.

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New Official, Old Subject: Exit Permits Again  
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15. (SBU) Late last year Peter Kusimba, the new "Head of Refugees Department" at the Ministry of Immigration and Registration of Persons, expressed his Ministry's concerns to IOM personnel and Refcoord about issuing exit permits to persons identified by various governments but not by UNHCR (or the GOK) as refugees. (For the U.S., this means especially P-3 refugee cases, as well as Visas-93 refugees, but all refugee resettlement countries have substantial numbers of cases not certified by UNHCR.) At that time, he focused on his desire for improved notification by the resettlement countries. From the U.S., he was looking for names and ages of each departing refugee (rather than just heads of families), and said he would pick a sampling of suspicious-looking cases for quick investigations, which he promised would not interfere with departures.

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Tough New Line in '06: "These Are Not Refugees"  
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16. (SBU) Kusimba invited Refcoord, UNHCR Senior Protection Officer Rossella Pagliuchi-Lor, IOM Operations Director David Derthick, and several officials from his department to a meeting on January 24. Kusimba began with a tougher line than in earlier discussions. He insisted that P-3 refugees were "not refugees," as they were not recognized by UNHCR, questioned why the U.S. would conduct interviews on Kenyan soil to determine U.S. refugee status, and asked that any refugees not recognized as such by UNHCR should not be identified as refugees in our requests for exit permits. The U.S. should respect the laws of Kenya. Refcoord said different countries use different methods of determining refugee status, noted that Kenyan consular officials issue visas in the U.S. without determining whether the applicants had entered the U.S. legally, and added that the label Kenya puts on U.S. P-3 refugees is really up to Kenya, but some joint designation should be possible. He emphasized that the U.S. has full respect for Kenya's authority over its own territory, procedures, and laws. UNHCR's Pagliuchi-Lor said that after WWII the Italian government had found a compromise label for persons emigrating to the U.S. that the Italians had not recognized as refugees, and suggested that a compromise designation should be possible.

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And, We're Not Giving Them Exit Permits  
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17. (SBU) Kusimba pointed angrily at the number of exit permits granted by Kenya in 2005 for those not recognized by UNHCR. "The feeling in my government," he said, "is that most people going for resettlement are not refugees." Kenya wants to help genuine refugees, but not these "others." Refcoord (along with IOM's Derthick) pointed out at length and in considerable detail that the U.S. process to determine refugee status is almost identical to the UNHCR's, and insisted that the U.S. has accepted many UNHCR-designated refugees in the past, is eagerly pushing for more at the moment, and will continue to do so. At this point, Kusimba stated quite clearly that "the message from my government" is: Kenya will not continue issuing exit permits to those not identified by the UNHCR as refugees.

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Only Compromise Offered: A Grace Period  
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18. (SBU) In the ensuing discussion, Refcoord and other participants proposed various compromise solutions. Pagliuchi-Lor expressed her deep concern over the UNHCR's capacity to determine the status of these new thousands of cases, especially in an environment of deep budget cuts, saying there is currently a backlog of eight or nine months in the refugee status determination queue. Refcoord again stressed that this would be a redundant effort, as UNHCR uses the same criteria and methods to determine refugee status as the U.S., and pointed out that as the UNHCR's single largest donor, the U.S. would effectively be paying for the same thing twice. He stressed the enormous disruption this would cause the U.S. program. It became clear that there was no compromise to be reached, as far as Kusimba was concerned. As a last-ditch effort, Refcoord asked that at least there should be a "grace period" of several months from the announcement of any new policy, in order to avoid at least some of the costs a sudden cancellation would bring. Kusimba said he would ensure a grace period, but would not offer more than two months.

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Softer Approach Worth Pursuing? Time is Short  
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19. (SBU) After the meeting, Refcoord spoke with Pagliuchi-Lor concerning the registration backlog at the camps. She said that if anything the backlogs are bigger at the camps than in Nairobi. There are "temporary arrangements" for feeding and sheltering new arrivals at the camps, but these

do not involve anything that could be construed as recognition of refugee status. However, Pagliuchi-Lor said her impression is an offer to help with capacity building might mollify the GOK. She threw out the possibility of providing the GOK with computer tracking systems and training. When Refcoord made a follow-up call to Kusimba on Friday, Kusimba said the Permanent Secretary had already drafted a letter to Refcoord. He implied that it contains a cut-off date that will end the issuance of exit permits to "undocumented" refugees.

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Potential Impact Huge  
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10. (SBU) Dave Johnson of the Joint Voluntary Agency (VLA) provided a quick look at the Kenya pipeline in light of this proposed new policy. Of 4,881 individuals approved and pending departure in Kenya, 3,733 are P-3 and 118 are Visas 93 (also affected), or 79 percent of the Kenya pipeline. Adding in the other countries in the region increases the denominator to 6,308 individuals approved and pending departure, which lowers the affected percentage to 61 percent, still an enormous portion of the total. Even with a possible grace period, such a policy would have a big negative impact on admissions numbers this year and likely an even greater impact in years to come.

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Comment  
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11. (SBU) Kenyan officials speaking with Refcoord in recent months have two styles. When they meet one at a time with Refcoord and IOM, they are flexible and willing to look at different alternatives, even if they admit that there are political stakes involved. However, at an "official" meeting in a GOK office with five or six lawyers and other officials, there is little to no flexibility (see reftel for an example of such a meeting). Despite the existence of this pattern, the January 24 meeting had a real edge, and likely indicated that political pressure is building to "do something" about illegal immigrants. The swamping of UNHCR offices in Nairobi by documentation seekers after the Minister's apparently spontaneous remarks last summer indicates that the government is quite capable of action that, while disruptive, tells citizens the government is taking action against illegal immigrants. The resettlement program seems about to be caught in the next action. To avoid this, Refcoord proposes exploring possible proposals with PRM, with a view to offering help to the government in return for its acceptance, in practice, of the view that CIS interviews cover the same ground as UNHCR's. Higher level intervention may be needed.

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